

Exhibit D

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 CHARLESTON DIVISION

4 Case No.: 2:13-cv-04457

MDL NO. 2326

5
6 VIDEO DEPOSITION OF BRIAN J. FLYNN, MD

August 29, 2014

7
8 BOSTON SCIENTIFIC CORPORATION, PELVIC REPAIR SYSTEM PRODUCTS
9 LIABILITY LITIGATION

10 Related to

11 AMBER COMER.
12

13
14 A P P E A R A N C E S:

15 For Plaintiff:

16 SEAN O. MCCRARY, ESQUIRE

sean.mccrary@ahw-law.com

17 Andrus Wagstaff, PC

7171 West Alaska Drive

18 Lakewood, Colorado 80226

(303) 376-6360

19
20 For Defendant:

ANDREW H. MYERS, ESQUIRE

21 myers@wtotrial.com

Wheeler Trigg O'Donnell, LLP

22 370 Seventeenth Street, Suite 4500

Denver, Colorado 80202

23 (303) 244-1800
24
25

<p style="text-align: right;">Page 6</p> <p>1 I do not have any photographs or slides or 2 questionnaires. I don't have any information sheets. I 3 don't keep any personal records on my patients; everything is 4 a shared chart with the University so I don't have a personal 5 office chart. Everything's the University of Colorado 6 Hospital chart.</p> <p>7 In terms of billing statements and insurance 8 issues, I don't have any copies of that. I have not had any 9 correspondence with the Plaintiff electronically or written 10 communication.</p> <p>11 And with respect to bullet point B, I don't have 12 any emails to Boston Scientific as it pertains to this case 13 or this product, Lynx. I do have a copy of my CV if you'd 14 like me to submit that as an exhibit.</p> <p>15 Q. Sure.</p> <p>16 A. This is an updated copy. And I printed that out 17 this morning, so that is the most recent copy of my CV. 18 Let's see.</p> <p>19 Lastly, bullet point 3, I've never used this 20 product Lynx, so I don't have any, any information for users 21 or instructions to user, patient brochures, or marketing 22 literature from Boston Scientific.</p> <p>23 Q. All right. Thanks, Doctor. And I probably should 24 have asked you this at the outset, but have you ever been 25 deposed before?</p>	<p style="text-align: right;">Page 8</p> <p>1 reconstructive surgery.</p> <p>2 I started out as an assistant professor and was 3 promoted to associate professor at my eighth year. And I'm 4 being considered for full professor.</p> <p>5 My practice is largely in female pelvic medicine, 6 but I do male reconstructive surgery as well.</p> <p>7 Q. Okay. And correct me if I'm wrong. My 8 understanding is that you receive a lot of referrals when 9 other physicians around the region have mesh complications. 10 Is that accurate?</p> <p>11 A. I receive a lot of referrals for a variety of 12 complaints, mesh complications included.</p> <p>13 Q. Would you say that you see more mesh complications 14 than most gynecologists or urogynecologists in this area?</p> <p>15 MR. MYERS: Objection to form.</p> <p>16 A. I see a lot of complications. I'm not familiar 17 with what other people's numbers are. But I know I'm very 18 busy in that part of my practice. It's a significant part of 19 my practice. I've done -- I have an interest in that area.</p> <p>20 (BY MR. McCRARY) Q. Have you ever done any 21 research involving pelvic mesh?</p> <p>22 A. Can you be more specific about research?</p> <p>23 Q. Have you ever performed any studies involving 24 pelvic mesh?</p> <p>25 A. Clinical studies in terms of prospective randomized</p>
<p style="text-align: right;">Page 7</p> <p>1 A. I have.</p> <p>2 Q. And so you're familiar with the process, and that 3 you need to wait for me to finish before you answer? And if 4 defense -- Defense Attorney has an objection you need to 5 let him get that out there and the same with your attorney, 6 before you give your answer?</p> <p>7 A. Yes. I'm familiar with the process.</p> <p>8 Q. Okay. In that case, why don't we start by just 9 taking a look at your CV here. Is this the only copy you 10 brought with you?</p> <p>11 A. I have an electronic copy right in front of me as 12 well.</p> <p>13 Q. I'll go ahead and mark it and that way we'll both 14 get a copy, and I'll let you look at that as you go. 15 (Exhibit 2 marked for identification.)</p> <p>16 Q. And I just wanted you to give us a brief summary 17 of your background, and how you ended up as a physician here 18 today.</p> <p>19 A. Well, I'm Dr. Brian Flynn. And I am the co- 20 director of female pelvic medicine reconstructive surgery at 21 the University of Colorado. I'm associate professor here of 22 surgery and urology.</p> <p>23 And I've been a faculty member here for more than 24 12 years. I came here in 2002 after finishing my fellowship 25 at Duke University in female pelvic medicine and</p>	<p style="text-align: right;">Page 9</p> <p>1 studies or industry sponsored studies, no. In terms of 2 retrospective case series, yes, looking at my own experiences 3 with mesh.</p> <p>4 I've looked at my experience using TVT Secur is 5 one product that I've written about. And I've published 6 videos on TVT Abbrevio. I have published a video on Prolift 7 is another product that I've published a video on.</p> <p>8 And with respect to mesh complications, I've 9 written about that. I've written two major articles. One 10 was an update for the American Urologic Association. And 11 another article was a recent article in 2013 I believe in the 12 International Urogynecology looking at complications from 13 midurethral slings.</p> <p>14 Most of my research is retrospective case series. 15 It's not bench work. I've never done any laboratory work or 16 bench science, or any kind of biomaterial scientific research 17 on any of these products.</p> <p>18 Q. So does that then mean that you're essentially 19 going back and looking at the cases that you've seen, and 20 quantifying how often you see certain occurrences with pelvic 21 mesh? Is that accurate?</p> <p>22 A. Yes, that's accurate.</p> <p>23 Q. Okay. And you mentioned that you did a video. 24 What were you, what was the purpose of the video? Was it 25 a training video?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. A few purposes. One is as a faculty member here 2 we're encouraged to present our data and do research and 3 interact at scientific meetings, and so the videos were part 4 of a scientific program that was presented at the American 5 Urologic Association. 6 One of the videos, one was presented at the south 7 central section of the American Urologic Association. Those 8 videos were done with our residents and fellows. 9 So the videos were done to present our technique, 10 and to help guide physicians on how to do the procedure 11 properly. That is the majority of the videos. 12 There is one video that was done specifically for 13 Ethicon. That was the TVT Abbrevio video. That is on their 14 website. That's my video; it's still on the website today. 15 And that video was done for online training as part 16 of their physician portal. It's not viewable by consumers, 17 but just for, for physicians who have a portal. They can go 18 online and look at the video. 19 And it was shared at their different teaching 20 courses they have. 21 Q. So I take it, then, that you have been retained to 22 work for -- is it, did you say Johnson and Johnson? Or was 23 it -- 24 A. I had been during that time, yes. 25 Q. And it was Johnson and Johnson?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. For training. 2 A. Mostly in the western United States. They would 3 have a training facility that they would rent out. They 4 don't own the facility, but there's different training 5 facilities, one here in Aurora at Science Care and another 6 facility in Phoenix and another one in California. 7 So those were the three primary places that we 8 would have what we'd call a lab where we'd train physicians 9 on new products and old products using a cadaver, using 10 videos, using tutorials, PowerPoint presentations. 11 Q. Were you involved at all in the drafting of any of 12 those materials, the PowerPoints, things like that? 13 A. Very limited role. For the most part their 14 professional educational department would develop most of 15 the literature. 16 Q. Has Ethicon or any other vaginal mesh device 17 manufacturer ever reached out to you with questions? 18 MR. MYERS: Objection to form. 19 A. Yeah, You'd have to be more specific. 20 (BY MR. McCRARY) Q. Have they ever reached out to 21 you with questions about ways to improve implantation 22 technique? 23 A. That's a very open-ended question, Sean. When you 24 say "reach out," can you -- 25 Q. Basically I want to know if, you know, these</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Well, Ethicon is their surgical division. Johnson 2 and Johnson is the parent company. 3 Q. Okay. And what was the scope of your contract with 4 that company? 5 A. I don't have any existing contracts with them. I 6 have not had a contract with them in at least a few years. 7 I'd have to look back at the exact records, Sean. 8 But at the time you got paid for any consulting 9 work that you did for them. So we agreed on a rate for me to 10 do that video for them. 11 Q. Okay. And so basically is it accurate that they 12 asked you to help with physician training? 13 A. That's accurate, yes. 14 Q. Okay. 15 A. I was, you know, what you would consider a 16 preceptor. 17 Q. Okay. And so have, has, has Ethicon ever sent 18 other surgeons to come watch you perform surgery? 19 A. Yes. 20 Q. And did they come here to Denver? Or did you go 21 somewhere, and the other physicians also came there and 22 watched you there? 23 A. Both. 24 Q. Okay. Do you recall where you went? 25 A. For what specific event?</p>	<p style="text-align: right;">Page 13</p> <p>1 companies, they have what we refer to as key opinion leaders, 2 who -- which are physicians that they respect in a field. 3 If they're either developing a new product or if 4 they have, you know, maybe some new literature that comes out 5 that may raise some eyebrows and they have questions about 6 that literature they'll, they'll ask some of their key 7 opinion leaders their thoughts. 8 Basically, what I'm wondering is if you're one of 9 those people that Ethicon reached out to for advice when they 10 were developing their mesh products? 11 A. I was, yes. 12 Q. Okay. And do you recall any -- anything 13 specifically that Ethicon asked you about? 14 A. I don't remember specific questions. This would 15 have been in around 2008. And I didn't have one-on-one 16 conversations, you know. 17 When we would have these courses a number of the 18 preceptors would get together with representatives from 19 Ethicon. And there may be an open discussion. But, you 20 know, people would bring ideas and talk about how the 21 products were performing and how the -- what kind of outcomes 22 everyone was getting. 23 Q. And have you trained any of the surgeons here at UC 24 Denver? 25 A. I have.</p>